

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 9126

Application of:

John C. Goodwin III et al.

Art Unit: 2142

Serial No.: 09/727,334

Examiner: T. Vu

Filed: November 29, 2000

**For: METHOD OF DOWNLOADING WEB CONTENT
TO A NETWORK KIOSK IN ADVANCE**

MS Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OCT 23 2006

APPEAL BRIEF

Sir:

Appellants have filed a timely Notice of Appeal from the action of the Examiner, dated June 23, 2006, finally rejecting all of the claims in the present application.

(i) REAL PARTY IN INTEREST

The real party in interest is NCR Corporation.

(ii) RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

(iii) STATUS OF THE CLAIMS

Claims 7-15 are pending in the application.

Claims 7-15 stand rejected under 35 USC 102(e) as anticipated by Milsted (6,345,255).

Claims 7-15 are appealed.

Claims 1-6 are canceled. There are no other claims, e.g., allowed, withdrawn, or objected to in the application.

(iv) STATUS OF AMENDMENTS

Appellants did not file a Response subsequent to the Final Rejection.

(v) SUMMARY OF CLAIMED SUBJECT MATTER

Claims 7-10 and 15 relate to a web content downloading method for a network kiosk associated with a store.

As embodied in claim 7, the invention includes

(a) storing a schedule from the store containing a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store by the kiosk, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages; (page 4, lines 26-28; page 5, 10-12; page 6, lines 14-30; Fig. 2)

(b) waiting until the download times in accordance with the schedule by the kiosk; (page 7, lines 20-30; page 8, lines 1-5; Fig. 2, steps 64-70) and

(c) downloading and storing web content at the web content addresses at the download times in accordance with the schedule by the kiosk. (page 8, lines 11-13; Fig. 2, step 76)

As embodied in claim 8, the invention further includes
(d) receiving the schedule from an in-store server by
the kiosk. (page 5, lines 13-16)

As embodied in claim 9, the invention further includes
wherein the web content comprises media files. (page 6,
lines 23-24)

As embodied in claim 10, the invention further includes
wherein the download times occur after store hours when
the kiosk is without any operator. (page 6, lines 29-30)

As embodied in claim 15, the invention includes
(a) recording a number of web content addresses
associated with web pages for assisting an operator to find
information about products or services offered for sale by
the store and to complete purchases of the products or
services, and corresponding download times determined by the
store by a computer associated with the store, wherein the
download times are chosen by the store to occur when the
kiosk is not being used by the operator to select and browse
the web pages;

(b) downloading the schedule to the kiosk by the
computer;

(c) waiting until the download times in accordance with
the schedule by the kiosk;

(d) connecting with servers at the web content
addresses at the download times in accordance with the
schedule, and downloading and storing web content at the web
content addresses by the kiosk; and

(e) providing stored web content upon selection of the
web pages by the operator by the kiosk.

Claims 11-14 relate to a network kiosk associated with a store.

As embodied in claim 11, the invention includes a display; (page 5, lines 23-24; Fig. 1) and a computer which stores a schedule from the store containing a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages, for waiting until the download times in accordance with the schedule, and for downloading and storing web content at the web content addresses at the download times in accordance with the schedule. (page 3, line 24; page 4, lines 8-10 and 26-28; page 5, 10-12; page 7, lines 5-17; Fig. 1)

As embodied in claim 12, the invention further includes wherein the computer is also for receiving the schedule from an in-store server. (page 5, lines 13-16)

As embodied in claim 13, the invention further includes wherein the web content comprises media files. (page 6, lines 23-24)

As embodied in claim 14, the invention further includes wherein the download times occur after store hours when the kiosk is without any operator. (page 6, lines 29-30)

(vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether Claims 7-15 are anticipated under 35 USC 102(e) as anticipated by Milsted (6,345,255).

(vii) ARGUMENT

Milsted (6,345,255) discloses a system and related tools for secure delivery and rights management of digital assets, such as print media, films, games, and music over a global communications network, such as the Internet and World Wide Web. Milsted further discloses a content provider that manages the digital assets and that makes the digital assets available to electronic digital content stores. End users connect to the electronic digital content stores to purchase copies of the digital assets. The end users may select immediate download or they can schedule downloads to occur at later times.

THE REJECTION OF CLAIMS 7-15 UNDER 35 U.S.C. §102(e) IS IMPROPER BECAUSE MILSTED FAILS TO TEACH EACH AND EVERY ELEMENT OF APPELLANTS' CLAIMS.

To establish anticipation, the Office has the burden of showing that the reference teaches each and every element of a claim (MPEP §2131).

With respect to claims 7-10, Milsted fails to disclose

(a) storing a schedule from the store containing a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding

download times determined by the store by the kiosk, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages;

(b) waiting until the download times in accordance with the schedule by the kiosk; and

(c) downloading and storing web content at the web content addresses at the download times in accordance with the schedule by the kiosk.

Milsted fails to disclose a kiosk. Milsted refers to end user devices without specifically mentioning a kiosk.

Milsted fails to disclose a schedule of the type claimed by Appellants, namely, a schedule containing web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store. Instead, Milsted discloses a schedule for downloading purchased media, e.g., songs, etc.

Milsted fails to disclose storing a schedule by a kiosk. Instead, Milsted discloses a schedule that is stored by the electronic digital content store, i.e., an Internet server, not by the user's end user device.

Milsted fails to disclose download times chosen by the store to occur when the kiosk is not being used by an operator to select and browse web pages. Milsted discloses that download times for purchased media may be scheduled for a later time as an alternative to immediate download of the purchased media.

Milsted fails to disclose waiting for download times to occur by a kiosk. Instead, Milsted discloses that the electronic digital content store waits for the download time selected by the user to occur. If the user's end user device, e.g., computer, is not powered on, then the electronic digital content store prompts the user to reschedule when the computer is next powered up.

Milsted fails to disclose downloading and storing web content at the web content addresses at the download times in accordance with the schedule by the kiosk. As noted above, the schedule of Milsted schedules downloading of purchased media, not web content associated with web pages for assisting an operator to find information about products or services offered for sale by the store.

With respect to dependent claim 8, Milsted fails to disclose

(d) receiving the schedule from an in-store server by the kiosk.

Milsted fails to disclose storing a schedule by a kiosk. Instead, Milsted discloses a schedule that is stored by the electronic digital content store, i.e., an Internet server, not by the user's end user device. Milsted further fails to disclose that a schedule be received from an in-store server by the kiosk. Milsted fails to disclose an in-store server connected to a network kiosk associated with the store.

With respect to dependent claim 9, Milsted fails to disclose

wherein the web content comprises media files.

Milsted fails to disclose web content, e.g., media files, associated with web pages for assisting an operator to find information about products or services offered for sale by the store. Instead, Milsted discloses media files that are available for purchase from an electronic digital content store.

With respect to dependent claim 10, Milsted fails to disclose

wherein the download times occur after store hours when the kiosk is without any operator.

Milsted fails to disclose download times chosen by the store to occur when the kiosk is not being used by an operator to select and browse web pages. Milsted only discloses that download times for purchased media may be scheduled for a later time as an alternative to immediate download of the purchased media. Milsted fails to disclose download time that occur after store hours.

With respect to claims 11-14, Milsted fails to disclose a network kiosk including

a computer which stores a schedule from the store containing a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages, for waiting until the download

times in accordance with the schedule, and for downloading and storing web content at the web content addresses at the download times in accordance with the schedule.

Milsted fails to disclose a kiosk. Milsted refers to end user devices without specifically mentioning a kiosk.

Milsted fails to disclose a schedule of the type claimed by Appellants. namely, a schedule containing web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store. Instead, Milsted discloses a schedule for downloading purchased media, e.g., songs, etc.

Milsted fails to disclose a computer of the kiosk for storing a schedule. Instead, Milsted discloses a schedule that is stored by the electronic digital content store, i.e., an Internet server, not by the user's end user device.

Milsted fails to disclose that the schedule includes download times chosen by the store to occur when the kiosk is not being used by an operator to select and browse web pages. Milsted only discloses that download times for purchased media may be scheduled for a later time as an alternative to immediate download of the purchased media.

Milsted fails to disclose a computer of the kiosk for waiting for download times to occur. Instead, Milsted discloses that the electronic digital content store waits for the download time selected by the user to occur. If the user's end user device, e.g., computer, is not powered on, then the electronic digital content store prompts the user to reschedule when the computer is next powered up.

Milsted fails to disclose a computer of the kiosk for downloading and storing web content at the web content addresses at the download times in accordance with the schedule. As noted above, the schedule of Milsted schedules downloading of purchased media, not web content associated with web pages for assisting an operator to find information about products or services offered for sale by the store.

With respect to dependent claim 12, Milsted fails to disclose

wherein the computer is also for receiving the schedule from an in-store server.

Milsted fails to disclose a computer of the kiosk for storing a schedule. Instead, Milsted discloses a schedule that is stored by the electronic digital content store, i.e., an Internet server, not by the user's end user device. Milsted further fails to disclose that the computer is also for receiving the schedule from an in-store server. Milsted fails to disclose an in-store server connected to a network kiosk associated with the store.

With respect to dependent claim 13, Milsted fails to disclose

wherein the web content comprises media files.

Milsted fails to disclose web content, e.g., media files, associated with web pages for assisting an operator to find information about products or services offered for sale by the store. Instead, Milsted discloses media files that are available for purchase from an electronic digital content store.

With respect to dependent claim 14, Milsted fails to disclose

wherein the download times occur after store hours when the kiosk is without any operator.

Milsted fails to disclose download times chosen by the store to occur when the kiosk is not being used by an operator to select and browse web pages. Milsted only discloses that download times for purchased media may be scheduled for a later time as an alternative to immediate download of the purchased media. Milsted fails to disclose download time that occur after store hours.

With respect to claim 15, Milsted fails to disclose

(a) recording a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store by a computer associated with the store, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages;

(b) downloading the schedule to the kiosk by the computer;

(c) waiting until the download times in accordance with the schedule by the kiosk;

(d) connecting with servers at the web content addresses at the download times in accordance with the schedule, and downloading and storing web content at the web content addresses by the kiosk; and

(e) providing stored web content upon selection of the web pages by the operator by the kiosk.

Milsted fails to disclose a kiosk. Milsted refers to end user devices without specifically mentioning a kiosk.

Milsted fails to disclose a schedule of the type claimed by Appellants, namely, a schedule containing web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store. Instead, Milsted discloses a schedule for downloading purchased media, e.g., songs, etc.

Milsted fails to disclose storing a schedule by a kiosk. Instead, Milsted discloses a schedule that is stored by the electronic digital content store, i.e., an Internet server, not by the user's end user device.

Milsted fails to disclose download times determined by the store by a computer associated with the store. Milsted discloses download times determined by a purchaser of media from an end user device.

Milsted fails to disclose download times chosen by the store to occur when the kiosk is not being used by an operator to select and browse web pages. Milsted only discloses that download times for purchased media may be scheduled for a later time as an alternative to immediate download of the purchased media.

Milsted fails to disclose waiting for download times to occur by a kiosk. Instead, Milsted discloses that the electronic digital content store waits for the download time

selected by the user to occur. If the user's end user device, e.g., computer, is not powered on, then the electronic digital content store prompts the user to reschedule when the computer is next powered up.

Milsted fails to disclose downloading and storing web content at the web content addresses at the download times in accordance with the schedule by the kiosk. As noted above, the schedule of Milsted schedules downloading of purchased media, not web content associated with web pages for assisting an operator to find information about products or services offered for sale by the store.

Milsted fails to disclose connecting with servers at the web content addresses at the download times in accordance with the schedule, and downloading and storing web content at the web content addresses by the kiosk. Milsted discloses that the electronic digital content store initiates downloading according to the schedule.

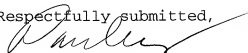
Milsted fails to disclose providing the web content upon selection of the web pages by the operator by the kiosk. Milsted fails to disclose web content associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services.

CONCLUSION

Appellants respectfully submit that the Examiner has failed to establish anticipation and that the rejection of claims 7-15 is improper.

Appellants further submit that claims 7-15 are allowable and respectfully request that the rejection of claims 7-15 by the Examiner be reversed by the Board.

Respectfully submitted,



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(viii) CLAIMS APPENDIX

7. A web content downloading method for a network kiosk associated with a store comprising the steps of:

(a) storing a schedule from the store containing a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store by the kiosk, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages;

(b) waiting until the download times in accordance with the schedule by the kiosk; and

(c) downloading and storing web content at the web content addresses at the download times in accordance with the schedule by the kiosk.

8. The method of claim 7, further comprising:

(d) receiving the schedule from an in-store server by the kiosk.

9. The method of claim 7, wherein the web content comprises media files.

10. The method of claim 7, wherein the download times occur after store hours when the kiosk is without any operator.

11. A network kiosk associated with a store comprising:

a display; and

a computer which stores a schedule from the store containing a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store, wherein the download times are chosen by the store to occur when the kiosk is not being used by the operator to select and browse the web pages, for waiting until the download times in accordance with the schedule, and for downloading and storing web content at the web content addresses at the download times in accordance with the schedule.

12. The kiosk of claim 11, wherein the computer is also for receiving the schedule from an in-store server.

13. The kiosk of claim 11, wherein the web content comprises media files.

14. The kiosk of claim 11, wherein the download times occur after store hours when the kiosk is without any operator.

15. A web content downloading method for a network kiosk associated with a store comprising the steps of:

(a) recording a number of web content addresses associated with web pages for assisting an operator to find information about products or services offered for sale by the store and to complete purchases of the products or services, and corresponding download times determined by the store by a computer associated with the store, wherein the download times are chosen by the store to occur when the

kiosk is not being used by the operator to select and browse the web pages;

(b) downloading the schedule to the kiosk by the computer;

(c) waiting until the download times in accordance with the schedule by the kiosk;

(d) connecting with servers at the web content addresses at the download times in accordance with the schedule, and downloading and storing web content at the web content addresses by the kiosk; and

(e) providing stored web content upon selection of the web pages by the operator by the kiosk.

(ix) EVIDENCE APPENDIX

No evidence pursuant to §§1.130, 1.131, or 1.132 or any other evidence has been entered by the Examiner or relied upon by Appellants.

(x) RELATED PROCEEDINGS APPENDIX

There are no related decisions rendered by a court or the Board or copies of such decisions.